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IN THE

Supreme Court of the United States

OCTOBER TERM, A.D., 1958.

No. 969

JOSEPHINE DAVIDITIS, also known as JOSEPHINE DAVIS, STELLA C. DAVIS, and BETTY HORRIGAN,

Petitioners,

vs.

THE NATIONAL BANK OF MATTOON, Mattoon, Illinois, a Banking Corporation,

Respondent.

Petition For Writ of Certiorari To The Supreme Court of Illinois.

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vs.

THE NATIONAL BANK OF MATTOON, Mattoon, Illinois, a Banking Corporation,

Respondent.

Petition For Writ of Certiorari To The Supreme Court of Illinois.

To The Honorable, Earl Warren, Chief Justice and Associate Justices of the Supreme Court of the United States.

Josephine Daviditis, also known as Josephine Davis, Stella C. Davis, and Betty Horrigan, Pro Se, petitioners, pray that a Writ of Certiorari issue to review and reverse the Orders of the Supreme Court of Illinois, entered on January 13, 1958, dismissing their appeal, on Motion of the appellee, in the above entitled cause of action.

The Trial Court, being the County Court of Coles, in Probate, of Illinois, denied the Petition for Reopening Probate Case No. 15428 for Fraud upon Petitioners and Affidavit thereon, their Motion for Change of Venue, a Statement from the Federal Bureau of Investigation, and their Motion for Subpoena duces tecum, on October 14, 1957 and allowed the Motion of respondent to strike their Petition to reopen estate, and asserts the following.

OPINION.

The Supreme Court of Illinois did not issue a written opinion.

The County Court of Coles, in Probate, of Illinois, being the Trial Court did not issue a written opinion on their Petition to Reopen Probate Case No. 15428 for Fraud Upon Petitioners and Affidavit, thereon, but said court issued a written opinion on May 16, 1952, and it is set forth as Petitioner's Appendix.

JURISDICTION.

The Supreme Court of Illinois entered its final decisions on January 13, 1958, dismissing appellant's Appeal on their Petition for Reopening Probate Case No. 15428 for Fraud Upon Petitioners and Affidavit pursuant to Ill. Rev. Stat. Chapter 110, sec. 72 (1) & (3) and Chapter 77 sec. 84, on Motion by appellee to dismiss same, and on said date the Court did not consider Motion by appellants for leave to file additional record instanter. Again on January 21, 1958, the Court denied Motion by appellants

that this Cause be Argued Orally on January 24, 1958 and that the Order dismissing Appeal be Vacated Pending Oral Argument was denied, whereas on January 24, 1958, Motion by appellants that this cause be transferred to the Appellate Court of Illinois, Third District, was denied.

Petitioners believe this honorable court to have the power to grant certiorari by reason of Part V, Rule 19(1) (b) of the Revised Rules of the Supreme Court of the United States, Title 28 U.S.C. sec. 1257 (2) (3) see *Kern-Limerich* v. *Scurloch*, Ark. 1954, 74 S. Ct. 403, U.S. Constitution, Article IV, sec. 2—Amendments IV, V, and XIV, sec. 1; also Rule 56 U.S.C. 28 of 1895; Title 5 U.S.C. sec. 139 E. F. and 12 U.S.C. sec. 240 (K); *Adam* v. *Saenger*, 303 U.S. 59, 164 (1938).

An amended application for an extension of time within which to file a petition for writ of certiorari in petitioner's cause of action was granted by an order of Mr. Justice Clark of the United States Supreme Court on April 3, 1958, extending their time to file from April 14, 1948, up to and including May 3, 1958, A. D.

The contention of petitioners is that the rejection of their petition for Relief pursuant to Ill. Rev. Stat. Chapter 110 sec. 72 (1) (3) and Chapter 77 sec. 84 by the County Court of Coles, State of Illinois, In Probate, and dismissal of their appeal by the Illinois Supreme Court constituted a denial of "due process of law" as is provided by the U.S. Constitution XIV Amendment sec. 1 and under Ill. Rev. Stat. Chapter 110 sec. 72 (6) wherein any Order denying Relief prayed in their Petition is appealable whereas Fraud was perpetrated upon the petitioners as the result of their complaints to the Federal

Bureau of Investigation in 1950, prior probate proceedings, and thereafter, about the respondent and other named persons in their pleadings. Relief was impossible for petitioners due to the fact that they had to legally represent themselves because of FRAUD, DURESS, INTIMIDATION, THREATS, PERJURY AND SUBORNATION OF PERJURY, FALSE REPRESENTATIONS, AND FRAUDULENT CONCEALMENT perpetrated by respondent, its attorneys, and other named persons in their pleadings, upon petitioners.

There are Federal Questions of Substance not theretofore determined by The Supreme Court of the United States and also questions to be certified by said court. Where denial of Constitutional Right to assistance of Counsel is asserted, its peculiar sacredness demands that this court scrupulously review the record. *Avery* v. *State of Alabama*, Ala. 1940, 60 S. Ct. 308 U.S. 444, 84 L. ed. 377.

5. There were violations of the rights of petitioners under Article IV, sections 1 and 2 of the U.S. Constitution regarding the Probate Court of Coles County, Illinois, the respondent's entrance into this action and the acts of other named persons in their pleadings.

6. The illegal use of the U.S. Mails and Federal Communications to perpetrate Fraud upon the petitioners.

7. Violations of the National Banking Act, as well as using a federal right under U.S.C. 12 sec. 248(K) to enter as administrators in contravention with the rights of the petitioners in being clothed with state rights under the Illinois Probate Act wherein the respondent, its attorneys and others named in their pleadings perpetrated a fraud upon petitioners.

STATEMENT OF THE CASE.

The action was brought pursuant to Ill. Rev. Statutes Chapter 110 section (1) (3) and Chapter 77 section 84 in a Petition for Reopening Probate Case No. 15428 for Fraud Upon Petitioners and Affidavit thereon and to Vacate the Order entered on May 26, 1952 by the County Court of Coles, in Probate, Illinois and Administration de bonis non be issued pursuant to Ill. Rev. Stat. Chapter 3, sec. 95, 247 (R. 108 & Tr. 118-121).

Petitioners allege they were under Duress and Legal Disability and were trying to protect their rights and that the ground for Relief is and has been Fraudulently concealed by the respondent (R. 13-18 & Tr. 10-11), its attorneys and other named persons in their pleadings complained about to the Federal Bureau of Investigation in the year of 1950 and thereafter, and which as the result of their complaints the U.S. Attorney's office in Danville, Illinois, through Ray M. Foreman officially entered the case on December 9, 1950, who accepted a fee as a federal attorney on government property, then became attorney for petitioners and who eventually entered into an interstate conspiracy together with a San Francisco, California Attorney, who was representing the petitioners before and after the death of their father and husband who was seriously ill in said city, and they made it possible for the respondent, an antagonist to the petitioners and heirs-at-law, become administrator, by Fraud, with Ray M. Foreman and associates, its attorney, who was representing the petitioners at the same time as evidenced by their pleadings, Exhibits and Affidavits on file in said cause of action. (R. Tr. 19-21, 100-104, R. 9-11, 11-14,

15-16), and who unbeknown to them became the attorneys for the respondent to their financial, and legal detriment.

On April 2, 1951, Ray M. Foreman, together with Kenneth Clapper, came up to their hotel room in Mattoon, Illinois, had a legal conference with them, and before they left they embezzled their legal file and investigator Ball's report together with receipts and other items and refused to return same until they collected a fee for same, although by testifying falsely against them in courts, suborning others to perjure themselves on their and the respondent's behalf and leaving them legally open to all legal pitfalls as evidenced by their pleadings filed in the Probate Court of Coles County, Illinois, Pro Se throughout the probate period and thereafter in many courts in the United States.

That the proceedings leading up to and during April 3, 1951, are a Fraud upon petitioners and are falsification of court records, (chapter 38, sec. 176, 401) because to the petitioner's belief and knowledge there was no hearing on April 3, 1951, on the fraudulent petition of letters of administration with a fraudulent acknowledgment affixed to same and the National Bank of Mattoon written in by Ray M. Foreman, whose name appears as attorney (Tr. 57-58, 60-61, 62). That the petitioner, Stella C. Davis, was not in court that day, nor in Charleston, Illinois, nor were the petitioners who were with her in Mattoon, Illinois, nor did she file same, nor was there "Notice of Hearing" or "Waiver" of same by petitioners filed therein. That this act was a fraud perpetrated upon them by the respondent, its attorneys and other named persons, a violation of Their Rights under the XIV and V Amendment to the Constitution and violation of the Illinois Civil Practice Act and Probate Act. *Cummins* v. *U.S.*, Ark. 1916, 232, F. 844, 147 C.C. A. 38. And this was a continuous

fraud upon petitioners up to and including April 3, 1951 and from thereon.

That the State of Illinois, or the County Court of Coles did not have jurisdiction of the subject matter as the intestate was a resident of the State of California at the time of his death, and at Chapter 3, sec. 162-5 Smith Hurd Stat. at Common Law was governed by the law of the domicile of intestate at time of death, as well as debts due from decedent's estate.

Under Ill. Rev. Stat. Chapter 110 sec. 72(3) if ground for Relief is Fraudulently Concealed shall be excluded in computing the period of two years as well as Fraud, Duress and Legal Disability and the petitioners allege they have acquired newly discovered evidence and have information concerning concealed assets which the court refused them permission to present and to administer, and under section of 72(6) any denial of this right is appealable. *Trupp* v. *First Englewood State Bank of Chicago*, 1940, 307 Ill. App. 258, 30 N.E. 198; *Headen* v. *Cohn*, 292 Ill. 210, 126 N.E. 350.

QUESTIONS PRESENTED.

This case involves an action to Reopen Probate Case No. 15428 for Fraud Upon Petitioners in the County Court of Coles, State of Illinois, in Probate, pursuant to Ill. Rev. Stat. Chapter 110, sec. 72 (1) (3) and Chapter 77 sec. 84.

The questions presented by the petition are set heretofore: Whether a Trial Court commits reversible error in taking jurisdiction of the subject matter, in Probate, in dismissing their Petition for Reopening Probate Case No. 15428 for Fraud Upon Petitioners and Affidavit and denying all other Relief pleaded in their cause of action, and the Supreme Court of Illinois by affirming the Orders of the Trial Court in dismissal of their appeal when:

1. The "Charges of Fraud" as such set forth is a denial of "due process of law" and a violation of their Rights under the V and XIV Amendments to the U. S. Constitution, U.S.C. 28 sec. 1343, and rights under the State of Illinois Constitution.

2. It is the right of every private citizen of the United States to inform an F.B.I. Agent, Treasury Agent etc., of violation of Internal Revenue Laws or other U.S. Laws under U.S.C. Title 28, rule 56 (of 1895); U.S. Rev. Statutes, 5508 Title 18 sec. 51; and the Anti Moiety Act of June 22, 1874, C 391.

3. "Unlawful Searches" may violate the IV Amendment to the Constitution by subterfuge or Fraud rather than by force.

4. "Color of Office", by an act unjusily done by countenance of an office grounded upon Corruption to which the office was a show and color. 28 U.S.C. sec. 1442(3). 5 U.S.C. sec. 139 (a, f & e) sec. 503-4.

ARGUMENT.

1.

The charges of fraud as such set forth is a denial of due process of the law and violation of the V and XIV Amendments to the Constitution.

This action involves a National Bank together with Officers of the United States and Justice Department on government salary representing said bank, respondent in a "conflict of interest" probate case, wherein they came in as Administrators by Fraud, Conspiracy, Intimidation, False Misrepresentations. That the Assistant U.S. Attorney, Ray M. Foreman used his governmental position in 1950 and thereafter to carrying on this Fraud upon petitioners, also to carry on an inter-state conspiracy together with Elliot Seymour, a California attorney in eventually aiding the respondent to attain the position as Administrator.

The Respondents have been trustees, conservators and defendants in a Fraudulent Separate Maintenance Action in the City Court of Mattoon, Illinois in re: 49-C-59 and widow was a plaintiff. (R. 11-16) (Tr. 27-32).

That Fraud, Coercion and Duress were perpetrated upon petitioner Stella C. Davis, on April 3, 1951, in obtaining her signature to a fraudulent Petition of Letters of Administration which eventually got a fraudulent acknowledgment to same and which was instigated by Ray M. Foreman, Kenneth Clapper, the respondent bank, its employee and officials (Tr. 57-59.). An alleged Hearing was held in the County of Coles Court wherein petitioner Stella C. Davis was supposed to be there in person and

filed her petition which is untrue, as she and the other petitioners were never notified of said hearing, nor did they attend or file a "Waiver of Notice of Hearing" or had any knowledge of same. (R. p. 5-8) (Tr. 27-32, —, 57-58, 59, 60-61) *Bradley* v. *Wall*, 364 19 L. ed. 214 December 1868. *Cook* v. *Burnham*, 3 Kan. App. 27, 44 P 447, *Cummins* v. *U. S.*, Ark. 1916, 232, F. 844, 147 CCA 38, *Ettor* v. *Tacoma*, 228 U.S. 148 and *Saunders* v. *Shaw*, 244 U.S. 317, 37 S. Ct. 638, 61 L. Ed. 163 (1917) and *Rosenblum* v. *Rosenblum*, 1943, 42 N.Y. 5 2d 1026, 191 Misc. 78.

2.

It is the right of every private citizen of the United States to inform an F.B.I. Agent, Treasury Agent etc., of violation of Internal Revenue Laws or other U.S. Laws under U.S.C. rule 56 (of 1895).

The petitioners complained to The Federal Bureau of Investigation about the respondent, The National Bank of Mattoon, in the year of 1959 and thereafter, and as the result of such complaints they were threatened, intimidated, oppressed in the free exercise or enjoyment of this right and through great fear and lack of legal protection they had to represent themselves in courts because no attorney would take them, and the courts denied them legal counsel when they petitioned courts for same thereby they were under legal disability and duress through the acts of the administrator and its attorneys and others complained about to the F.B.I. U. S. Rev. Statutes, 5508 Title 18 sec. 51 and the Anti Moiety Act of June 22, 1874, C 391. *In Re Quarles*, Ga. 1895 15 S. Ct. 959, 158 U.S. 537, 39 L. ed. 1080. (R. 15-16) (Tr. 170-177)

3.

Unlawful searches may violate the IV Amendment to the Constitution made by subterfuge rather than by force.

Illegal searches for the assets were made by Elliot Seymour, in San Francisco, California while decedent was still alive and in his last illness while he was in the possession of a key ring with one of the keys to the safety deposit box in The National Bank of Mattoon, whereas after the death of the decedent, Ray M. Foreman, together with Kenneth Clapper and aided by the respondent bank made illegal searches of the decedent's assets, accounts etc. in The National Bank of Mattoon, and the attorneys in other banks and financial institutions prior the appointment, qualification of an administrator. *Carroll* v. *U. S.*, 267 U.S. 132, *Christopher* v. *Norvell*, 291 U.S. S. Ct. L. ed. 732.

4.

In the absence of counter-affidavits averments contained in the affidavits and supported by Exhibits by the petitioners in support of their Reply Brief must be taken as true.

Leitch v. *Hine*, 393 Ill. 211, 218.

The respondent did not file any affidavits to support their Motion to Strike Petition for Reopening Probate Case No. 15428 for Fraud Upon Petitioners and Affidavit thereon.

5.

There is a "Freehold" involved conferring Jurisdiction on Appeal to the Supreme Court of Illinois pursuant to Supreme Court Rule 75(1) and in cases concerning in which the interest of the State is involved.

The respondent OK'd several large checks on which the signature of the decedent was forged given in consideration of sale of a valuable piece of property and another piece of property was conveyed in a "Declaration of Trust" dated October 4, 1949 wherein the bank was trustee and it was involved in the fraudulent separate maintenance action 49-C-50 in the Mattoon City Court, Mattoon, Ill.

6.

Falsifying of Public Records.

There are irregular and re-issued U. S. Savings Bonds which is a Fraud not only upon the heirs-at-law but upon the Treasury Department of the United States. U. S. Code Title 18, sec. 472 and 473 and Section 1005. Chapter 38, Section 176, 401, Chapter 38, sec. 176, 401 (Brief p. 11). "Wilful" in the Act of Congress of 1882, 22 Stat. at L. 166 Title 13 imposing a penalty on National Bank officers or agents on wilful violations of the law implies a knowledge and purpose to do wrong.

Potter v. *U. S.* 438, 15 S. Ct. 144, 49 L. Ed. 214.

The county Judge signed the order to sell personal property of the deceased on January 8, 1952 and the U.S. Bond No. C10547470E is not in final settlement report of July 24, 1953. (Tr. 136-137)

7.

Rule 9-Civil R. of F. P. Under this rule requiring that averments of Fraud be stated with Particularity complaint alleging Fraud was not subject to Objection that it contained redundant, immaterial, impertinent or scandalous allegations.

Israel v. *Alexander*, D.C. N.Y. 1942, 50 F. Supp. 1007.

CONCLUSION.

It is further respectfully submitted that the record of this case presents issues of such basic importance regarding the rights and protection of the informers who are also heirs-at-law and the involvement of a National Bank as administrator in a "Conflict of Interest" case together with former federal officers, employees and other named persons in their pleadings complained about to the Federal Bureau of Investigation.

That public interest requires a review of the decision of the Supreme Court of Illinois dismissal of petitioners' appeal. That the Orders of the Trial Court be reversed and the cause of action to be tried on the Facts, Evidence, Exhibits, Testimony and Merits by a Jury for Reopening Probate Case No. 15428 for Fraud Upon Petitioners and Affidavit in Support thereof.

Respectfully submitted,

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APPENDIX.

State of Illinois
County of Coles—ss.

In the Matter of the Estate
of
William Daviditis, also known
as William Davis.
IN THE COUNTY COURT
In Probate
No. 15428
Filed May 16, 1952

Opinion Of Court.

On February 16, 1952, Stella C. Davis, one of the heirs at law of William Daviditis, filed in the Probate Court of Coles County, a petition to withdraw her Petition for the appointment of an Administrator in the above estate. On February 26, 1952, a petition was filed in the said court by Josephine Daviditis, another heir at law of William Daviditis, deceased, and the widow of said deceased asking that Letters of Administration previously issued to the National Bank of Mattoon be revoked and that Letters of Administration de bonis non be issued to Stella C. Davis. On March 28, 1952, the National Bank of Mattoon filed its final account in the above estate asking for leave to make distribution and to be discharged. On April 9, 1952, the National Bank of Mattoon filed an objection to a claim in the sum of $8,000.00 filed by Josephine Daviditis, widow of William Daviditis, a petition for allowance of Administrator and attorney fees, a motion to strike the petition for revocation of Letters and issuance of new Letters and Petition of Stella C. Davis from the files, an affidavit of Kenneth H. Clapper and copies of Notices of Hearing. On April 25, 1952 Josephine Daviditis filed her objection to

the final account of the Administrator and the petition for allowances of fees; Stella C. Davis filed an objection to the final account and to the petition for allowances of fees and Betty Horrigan, another heir at law of William Daviditis, also filed her objections to the Administrator's final account and its petition for allowances for fees. These matters were all set for hearing and after a few continuances were heard by the Court with all parties present in person and with their attorneys on April 25, 1952, May 9, 1952, and concluded on May 10, 1952. By agreement among all parties the several petitions and objections were consolidated into one hearing together with the objections to the claim of Josephine Daviditis and the matter of a claim filed by a San Francisco attorney to the amount of $250.00.

The claim of Elliott W. Seymour, attorney at law in San Francisco, was allowed by the court after all the parties had agreed to said allowance.

The question of the claim of Josephine Daviditis in the sum of $8,000 was based upon the terms of a trust agreement entered into by the deceased, the terms of which directed such payment to the wife upon the death of the deceased. The Administrator introduced into evidence the terms of a decree of Separate Maintenance entered by the City Court of Mattoon, Illinois, in which the prior Trust Agreement was declared to be null and void and a new agreement was set up making no provisions for such payment to Josephine Daviditis upon the death of the deceased. The claimant attempted to present evidence tending to establish that the decree of the Mattoon City Court was void because the court lacked jurisdiction and because said decree was awarded on insufficient evidence. This court excluded all evidence tending toward such proof, it being the opinion of this court that the validity of the Mattoon City Court decree cannot be attached in this

court at this time on the grounds proposed by the claimant. It is the opinion of this court that the decree of the City Court of Mattoon is valid and binding upon all parties therein concerned and that this court has no jurisdiction or power here to hold such decree void or to change or alter it in any respect. Even if it is assumed that the decree was defective at the time it was entered, the evidence showed that the parties to the Mattoon City Court proceedings took advantage of its terms and conducted themselves under it for a considerable length of time and it is the opinion of this court that the claimant is now estopped from denying the validity of that decree. The Administrator's objections to the claim of Josephine Daviditis will be sustained.

We come now to the question of the Petition of Stella C. Davis to withdraw her petition for the appointment of an Administrator in the above estate. There Is some conflict in the testimony regarding the facts surrounding the execution of the original petition for the appointment of the National Bank as the Administrator executed by Stella C. Davis. Miss Davis and Mrs. Horrigan, another of the heirs, testified that the original petition was obtained from Miss Davis under duress and while she was in a great state of mental anguish and physically ill and that she did not understand the effect of such a petition and that her signature to said petition was not made or acknowledged before a Notary Public. Administrator introduced evidence then to show that Miss signed the original petition for Letters after a lengthy conversation in which the entire matter of their father's estate was discussed and after a full explanation had been made to her regarding the appointment of the Bank as Administrator and that the petition was signed and acknowledged before a Notary Public. The matter of the facts surrounding the execution of the original petition for Letters is in doubt in the mind

of this court but it does appear from undisputed evidence that for a period of several months after said petition was executed that the Administrator entered on the duties of his office and carried on the same with the cooperation and consent of all of the heirs including Miss Davis and that the relations between the Administrator and the heirs were cordial and that no objections to the Bank's authority as Administrator were made. In view of this fact and in view of the direct conflict in the evidence regarding the execution of the original petition, this court cannot say that the original appointment of the Administrator was irregular and that the Letters issued to the National Bank of Mattoon should be revoked. Even if it is assumed that the original petition for appointment was defective in that some formal requisite was omitted, it is the opinion of this court that the bank became a de facto Administrator and that as such, its actions were never objected to by any of the heirs during the time when such objections might have been a cause for the revocation of the Letters of Administration. It is therefore the order of the court that the Administrator's motion to strike petition for revocation of Letters and issuance of new Letters by Stella C. Davis be allowed and the petition by Stella C. Davis withdrawing her petition for appointment of Administrator be denied.

Now as to the petition for revocation of Letters and issuance of new Letters by Josephine Daviditis, the surviving spouse of William Daviditis. This petition is based on the premise that as the widow of said deceased, she is entitled to preference in the nomination of the Administrator and that she has never been given such preference. There was some evidence tending to show that at the time the original petition for Letters was filed, the widow, Josephine Daviditis, was not a resident of the State of Illinois and therefore would not be entitled to nominate

an Administrator. It is the opinion of this court however, that even if the widow had been a resident of Illinois and entitled to nominate an Administrator, she is precluded from doing so at the present time under the provisions of Paragraph 254 of Chapter 3, Illinois Revised Statutes which in effect gives her the right to nominate within three months after the issuance of the Letters. In this court's opinion the passage of time had made it improper for the widow to now nominate an Administrator even if it is assumed that she was a resident of Illinois at the time of the opening of this estate. For these reasons the petition of Josephine Daviditis for the revocation of the Letters of Administration and the issuance of new Letters is denied.

We come now to the question of the approving of the Administrator's account, its petition for allowance of Administrator and attorney fees and the objections filed thereto by Josephine Daviditis, Stella C. Davis and Betty Horrigan. There was testimony at great length by Stella Davis and Betty Horrigan concerning the Administrator's failure to locate and account for certain assets of the deceased which these heirs claim should have been included in the estate. A great part of the testimony of Stella C. Davis and Betty Horrigan Was Objectionable And Immaterial and failed to advise the court as to the exact manner in which the Administrator had been guilty of neglect or failure in the location of the assets of the estate. Much of the testimony of Miss Davis and Mrs. Horrigan contained conclusions of these persons and the court has searched the entire record for facts which might justify these conclusions. The Bank introduced considerable testimony tending to show to what extent they had searched for additional assets. In the opinion of this court the Administrator has done all that any reasonable person could expect them to do in their attempts to locate all

of the funds and assets belonging to the deceased. It is the further opinion of this court that the Administrator proceeded considerably further in its search for assets than might have been expected of it when the evidence concerning the situation in life of the deceased, and his activities during his lifetime is considered. This court can only reach the conclusion that the position of the heirs regarding the existence of additional assets is erroneous. The objection to the Administrator's final account and the objections to the Administrator's petition for the allowance of Administrator and attorney fees must therefore be overruled by the court. The Administrator introduced evidence at great length concerning the actual work done in the administration of this estate. It also presented the testimony of several well known and competent members of the bar of the community in which the estate was administered, concerned with the amount of fees to be charged in estates in which the work involved would be comparable to the work done in this estate. The testimony of these witnesses in effect would justify the allowance of an Administrator's fee of $1500 and an attorney's fee of $3000. Miss Davis, Mrs. Horrigan and Mrs. Daviditis presented no evidence tending to show that these fees were unreasonable or not in accordance with the customary charges made in this community, it being their position that the alleged failure of the Administrator to produce additional assets was grounds not only for the Administrator's discharge but also grounds for denying the administrator and the administrator's attorney any compensation for their work. Since it is the opinion of the court that the Administrator and the Administrator's attorney have creditably fulfilled their obligations to the estate and since there is adequate evidence to show that the fees asked by them are in accordance with good practice in this community, the court will allow an Adminis-

trator's fee of $1500 and an Administrator's attorney's fee in the amount of $3000.00.

It is the further opinion of the court that the final account of the Administrator should be and the same is hereby approved subject to the payment of the court costs, the attorney's fees, the Administrator's fees in the matter, and the filing of receipts therefore, and subject to the filing of receipts for distribution of the assets of the estate.

/s/ William J. Sunderman
County Judge